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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2107**

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Mr. John Helgerson  
Inspector General  
Central Intelligence Agency  
McLean, VA

Dear Mr. Helgerson:

Thank you for undertaking a review of the Agency's practices regarding rendition.

This issue has been festering for several years, and I have personally pressed for an accounting since 2004, when I introduced legislation to prohibit the practice of sending detainees in our custody to countries known to use torture in interrogations.<sup>1</sup> Subsequently, I found it necessary to oppose an attempt by the Republican leadership to authorize such a practice as part of our consideration of HR 10, the 9/11 Commission Implementation bill,<sup>2</sup> and I have repeatedly sought to get answers to many of the questions surrounding this practice.<sup>3</sup>

In March 2005, I sought the declassification of the Executive Order authorizing "extraordinary renditions", and I have twice successfully passed funding restrictions on the practice of rendition.<sup>4</sup>

The concerns of agents asked to implement "extraordinary renditions" to countries that torture were well expressed in a 2002 FBI memo made public in Newsweek:

**"In a memo forwarded to a senior FBI lawyer on Nov. 27, 2002, a supervisory special agent from the bureau's behavioral analysis unit offered a legal analysis of interrogation techniques that had been approved by Pentagon officials for use against a high-value Qaeda detainee. After objecting to techniques such as exploiting "phobias" like "the fear of dogs" or dripping water "to induce the misperception of drowning," the agent discussed a plan to send the detainee to Jordan, Egypt or an unspecified third country for interrogation. "In as much as the intent of this category is**

<sup>1</sup> (see [http://www.house.gov/markey/Issues/iss\\_iraq\\_bill040623.pdf](http://www.house.gov/markey/Issues/iss_iraq_bill040623.pdf).)

<sup>2</sup> (see, e.g., Testimony: [http://www.house.gov/markey/Issues/iss\\_HSgen\\_st041005.pdf](http://www.house.gov/markey/Issues/iss_HSgen_st041005.pdf); House letter: [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_ltr041020.pdf](http://www.house.gov/markey/Issues/iss_human_rights_ltr041020.pdf).)

<sup>3</sup> (see, e.g., Powell letter, 2004: [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_2ltr040930.pdf](http://www.house.gov/markey/Issues/iss_human_rights_2ltr040930.pdf); Rice letter, 2005: [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_ltr050127.pdf](http://www.house.gov/markey/Issues/iss_human_rights_ltr050127.pdf).)

<sup>4</sup> (see Markey amendment, 3/05, [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_st050315.pdf](http://www.house.gov/markey/Issues/iss_human_rights_st050315.pdf); and 5/05 [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_pr050505.pdf](http://www.house.gov/markey/Issues/iss_human_rights_pr050505.pdf).)

**to utilize, outside the U.S., interrogation techniques which would violate [U.S. law] if committed in the U.S., it is a per se violation of the U.S. Torture Statute," the agent wrote. "Discussing any plan which includes this category could be seen as a con-spiracy to violate [the Torture Statute]" and "would inculcate" everyone involved."**<sup>5</sup>

As you may know, the Administration's excuse for engaging in renditions that appear to violate the law against torture is the practice of "diplomatic assurances" – whereby the United States asks a diplomat of a known-to-torture country whether, if we send a detainee to be tortured there, he/she will be tortured. The torturer says "no." The U.S. then uses this exchange as authorizing an exemption to international and U.S. law.

The number of reports in which diplomatic assurances have not been respected prompted an examination of the practice by the United Nations Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur, Manfred Nowak, reported on the practice in his August 2005 interim report:

**"It is the view of the Special Rapporteur that diplomatic assurances are unreliable and ineffective in the protection against torture and ill-treatment: such assurances are sought usually from States where the practice of torture is systematic; post-return monitoring mechanisms have proven to be no guarantee against torture; diplomatic assurances are not legally binding, therefore they carry no legal effect and no accountability if breached; and the person whom the assurances aim to protect has no recourse if the assurances are violated. The Special Rapporteur is therefore of the opinion that States cannot resort to diplomatic assurances as a safeguard against torture and ill-treatment where there are substantial grounds for believing that a person would be in danger of being subjected to torture or ill-treatment upon return."**<sup>6</sup>

I urge you to use your powers to include in your investigation a thorough review of the preposterous practice of accepting assurances against torture from a country already known to torture persons in its custody. The use of "diplomatic assurances" is an embarrassing fig-leaf that fools no one and opens the United States to ridicule and charges of hypocrisy around the world. Again, I have attempted to probe this area by asking to be shown copies of the "diplomatic assurances" on which the Administration is relying. In its answer to me, the State Department refused to make these assurances public.<sup>7</sup> But it has not escaped notice that the CIA may be spiriting detainees to Syria for interrogation at the same time that the State Department is officially condemning the regime.

In December, in yet another attempt to break through the veil of secrecy that surrounds "extraordinary rendition", I introduced a Resolution of Inquiry in the House of

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<sup>5</sup> <http://www.msnbc.msn.com/id/8769416/site/newsweek>

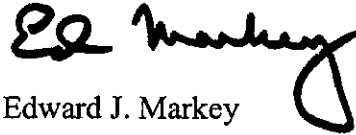
<sup>6</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N05/476/51/PDF/N0547651.pdf?OpenElement>

<sup>7</sup> (see Reynolds letter: [http://www.house.gov/markey/Issues/iss\\_human\\_rights\\_resp050520.pdf](http://www.house.gov/markey/Issues/iss_human_rights_resp050520.pdf).)

Representatives to allow a more informed debate about this controversial practice. I am hopeful that your own inquiry may move this issue in a productive direction. If I can be of any assistance in this regard, please do not hesitate to contact me.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Markey". The signature is fluid and cursive, with a large loop at the end of the last name.

Edward J. Markey